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Letter dated 7 August 2018 from the Secretary-General addressed to the President of the Security Council

I have the honour to transmit herewith a letter dated 11 July 2018 from the Chairperson of the African Union Commission, Moussa Faki Mahamat, regarding the decision on Western Sahara adopted by the Assembly of Heads of State and Government of the African Union at its thirty-first ordinary session, held in Nouakchott on 1 and 2 July 2018 (see annex).

I should be grateful if you would bring the present letter and its annex to the attention of the members of the Security Council.

(*Signed*) António **Guterres**

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Annex

Letter dated 11 July 2018 from the Chairperson of the African Union Commission, Moussa Faki Mahamat, addressed to the Secretary-General

I am writing to you pursuant to the decision on Western Sahara adopted by the Assembly of Heads of State and Government of the African Union at its thirty-first ordinary session, held in Nouakchott on 1 and 2 July 2018 (see enclosure I).

In January 2017, the Assembly of the Union requested me to report to it on measures and initiatives that I would have taken on the Western Sahara issue, alone or with the Chairperson of the African Union, in partnership with the United Nations. It was against this background that, during the past months, I undertook consultations with the Moroccan and Sahrawi authorities, as well as with the neighbouring countries, namely, Algeria and Mauritania, the United Nations and other international stakeholders. My report to the Assembly of the Union, a copy of which is herewith attached (see enclosure II), provided an account of those consultations, including the positions of the parties, and made a number of recommendations on the way forward.

It was on the basis of the report that the decision on Western Sahara was unanimously adopted by the Assembly of the Union. In that decision, the Assembly reiterated its deep concern at the continuing stalemate in the conflict in Western Sahara, as well as the resulting consequences, and stressed the need for renewed efforts to overcome the current impasse in the negotiation process and find a just, lasting and mutually acceptable political solution which will provide for the self-determination of the people of Western Sahara, in line with the relevant decisions of the African Union and resolutions of the United Nations Security Council. In this respect, it appealed to the parties to the conflict to urgently resume negotiations without preconditions and in good faith, under the auspices of the Secretary-General of the United Nations, whose Security Council is seized of the matter.

In this context, the Assembly agreed on the need for the African Union to actively contribute to the search for a solution, through renewed support for the efforts led by the United Nations Secretary-General and his Personal Envoy. Accordingly, it decided to establish an African mechanism comprising the African Union troika, namely the outgoing, current and incoming Chairpersons, as well as the Chairperson of the Commission, to extend effective support to the United Nations-led efforts, by: (i) encouraging the parties to demonstrate flexibility; (ii) mobilizing as large support as possible for the United Nations-led efforts; and (iii) reflecting, in close consultation with the United Nations, on the substance of the desired compromise. This mechanism shall report regularly on the implementation of its mandate to the Assembly of the Union and, as necessary, to the Peace and Security Council of the African Union at the level of the Heads of State and Government.

In addition, the Assembly requested me to initiate the required consultations for the reactivation of the African Union Office to the United Nations Mission for the Referendum in Western Sahara, in Laayoune, in order to facilitate operational coordination with the United Nations. The Assembly also appealed to all Member States of the African Union, in particular the neighbouring countries, to support the United Nations-led efforts. Finally, the Assembly decided to remain seized of the matter.

In accordance with the request made by the Assembly of the Union, I enclose herewith a copy of the decision adopted by that body. I should be most grateful if you would communicate the decision and the related report to the members of the United Nations Security Council, for their information and action as necessary.

I take this opportunity to thank you, as well as your Personal Envoy, for the open and constructive nature of the exchanges of views we have had on the issue of Western Sahara. I look forward to the continuation of the same spirit, within the framework of the partnership between the African Union and the United Nations.

(*Signed*) Moussa **Faki Mahamat**

Enclosure I

[Original: English and French]

Decision on the report of the Chairperson of the Commission of the African Union on the issue of Western Sahara Doc. Assembly/AU/4(XXXI)

The Assembly,

1. **TAKES NOTE** of the Report of the Chairperson of the Commission on the issue of Western Sahara;

2. **COMMENDS** the Chairperson of the Commission for the steps he has taken in pursuance of the mandate entrusted to him by the Assembly of the Union in paragraph 6 of decision Assembly/AU/Dec.653(XXIX) adopted at its 29th Ordinary Session held in Addis Ababa, Ethiopia, from 3 to 4 July 2018, including consultations with the Moroccan and Sahrawi authorities, as well as with other stakeholders, including the neighboring countries and the United Nations (UN), and **EXPRESSES ITS APPRECIATION** to the Chairperson of the Union, President Paul Kagame, for the consultations he undertook on the issue of Western Sahara;

3. **REITERATES ITS DEEP CONCERN** at the continued stalemate in the conflict in Western Sahara and the resulting consequences on the ground and in the region, as well as its impact on the functioning of the AU and the implementation of its priorities;

4. **STRESSES THE NEED** for renewed efforts to overcome the current impasse in the negotiation process and to find a just, lasting and mutually acceptable political solution which will provide for the self-determination of the people of Western Sahara, in line with the relevant AU decisions and UN Security Council resolutions. In this respect, the Assembly **APPEALS** to the parties to the conflict to urgently resume negotiations without preconditions and in good faith, under the auspices of the Secretary-General of the United Nations, whose Security Council is seized of the matter;

5. **AGREES ON THE NEED** for the AU to actively contribute to the search for a solution, through renewed support to the efforts led by the UN Secretary-General and his Personal Envoy. In this respect, the Assembly:

(a) **DECIDES** to establish an African mechanism comprising the AU Troika, namely the outgoing, the current and the incoming Chairpersons, as well as the Chairperson of the Commission, to extend effective support to the UN-led efforts, by encouraging the parties to demonstrate flexibility, mobilizing as large support as possible for the United Nations-led efforts, and reflecting, in close consultation with the UN, on the substance of the desired compromise. This mechanism shall report regularly on the implementation of its mandate to the Assembly of the Union and, as necessary, to the Peace and Security Council at the level of the Heads of State and Government. The Assembly **DECIDES** that the issue of Western Sahara will only be raised within this framework and at this level;

(b) **REQUESTS** the Chairperson of the Commission to initiate the required consultations for the reactivation of the AU Office in Laayoune to the UN Mission for the Referendum in Western Sahara, in order to facilitate operational coordination with the UN;

(c) **APPEALS** to all AU Member States, in particular the neighboring countries, to support the UN-led efforts.

6. **EXPRESSES ITS DETERMINATION**, while efforts are under way to find a solution to the conflict, to ensure that the implementation of the AU agenda, in particular the integration process and related partnerships is not hampered in any way by the prevailing state of affairs with respect to Western Sahara;

7. **REQUESTS** the Chairperson of the Commission to transmit this decision to the parties, as well as to the UN and other stakeholders;

8. **DECIDES** to remain seized of the matter.

31st Ordinary Session, 1–2 July 2018, Nouakchott, MAURITANIA

Enclosure II

[Original: English and French]

Report of the Chairperson of the Commission on the Issue of Western Sahara

I. BACKGROUND

1. The present report is submitted in pursuance of decision Assembly/AU/Dec.653 (XXIX) adopted by the Assembly of the Union at its 29th Ordinary Session held in Addis Ababa, from 3 to 4 July 2017. It should be recalled that the Assembly had requested me to report, at its Ordinary Session of January 2018, on the measures and initiatives that I would have taken on the Western Sahara issue, alone or with the Chairperson of the Union, in partnership with the United Nations. At the 30th Ordinary Session of the Assembly, held in Addis Ababa, from 28 to 29 January 2018, it was agreed that this report would be submitted to the 31st Ordinary Session, in Nouakchott, Islamic Republic of Mauritania, from 1 to 2 July 2018.

2. The present report covers the political consultations and interactions I held as part of the mandate entrusted to me. It highlights a number of observations, before formulating recommendations to the Assembly of the Union, and concludes with some remarks.

II. POLITICAL CONSULTATIONS INTERACTIONS

3. As part of the implementation of the above-mentioned decision of the Assembly of the Union and the mandate entrusted to me, I held a series of consultations with the parties. I also exchanged views with the United Nations and other international stakeholders. The purpose was twofold: first, to apprise myself with the development of the situation; second, to have a better understanding of their positions and perspectives.

(i) Conduct of consultations

4. From 5 to 6 June 2018, I went to the Kingdom of Morocco, where I was received, in Rabat, by His Majesty King Mohammed VI. I also met with the Minister of Foreign Affairs and International Cooperation of the Kingdom of Morocco, Nasser Bourita.

5. On 19 and 20 June, I visited Tindouf, in Algeria, to meet with the authorities of the Sahrawi Arab Democratic Republic (SADR). There, I was received by President Brahim Ghali. I also held talks with the SADR Foreign Minister, Mohamed Salem Ould Salek.

6. In addition to the parties, I also consulted the neighboring countries, in view of their geographical proximity and knowledge of the issue, as well as the contribution they could make in the search for a solution. Thus, from 11 to 12 March 2018, I travelled to Algeria, where I discussed efforts to find a solution with Foreign Minister Abdlekader Messahel and Prime Minister Ahmed Ouyahia. On 28 and 29 March 2018, I visited Mauritania, where I exchanged views with President Mohamed Ould Abdel Aziz.

7. Furthermore, I met with the Personal Envoy of the United Nations Secretary-General, Horst Köhler, on two occasions: first in Addis Ababa, at the AU headquarters, on 10 January 2018; then in Kigali, with President Paul Kagame, on 13 January. Likewise, I had several discussions with the Secretary-General of the

United Nations, including during my visit to New York to take part in the high-level interactive dialogue with regional organizations, held on 12 and 13 June 2018. I also had very useful exchange of views with other international stakeholders, both within and outside the continent.

8. On 15 June, I had a working session with my Special Envoy for Western Sahara, former President Joaquim Chissano of Mozambique. Earlier, Mr. Chissano met with the Personal Envoy of the UN Secretary-General on 29 May 2018, in Berlin.

9. Throughout my interactions, I maintained close contact with the Chairperson of the Union, President Paul Kagame. We regularly kept each other informed about our respective efforts on the issue of Western Sahara.

(ii) Interactions with the parties

10. During my consultations with the parties, I clearly stated the context of my efforts. In this regard, I focused on the following aspects:

(a) the protracted nature of the conflict, now decades old, and the need for the effective relaunch of the peace process, with a genuine will to achieve a lasting solution;

(b) the consequences resulting from this state of affairs for the affected people, particularly the refugees in Tindouf;

(c) the risk of active hostilities in view of the tensions observed on the ground over the past years and, consequently, the danger of the calling into question of the ceasefire that has been in force since September 1991;

(d) the paralysis of the integration process in the Maghreb region, which results in huge losses in terms of economic opportunities and negatively affects the efforts made at level of the AU, given that the Regional Economic Communities, including the Arab Maghreb Union (AMU), are the pillars of continental integration;

(e) the impact of the conflict on the functioning of the AU, as evidenced by the numerous incidents that occurred in the course of the activities organized as part of its programmes and in meetings with international partners. I added that this situation was all the more damaging as it occurred at a time when the AU was endeavouring to accelerate the process of continental integration; and

(f) the growing concern of a number of Member States, which fear that the implementation of continental integration priorities will be seriously hampered by the persistence of the dispute over Western Sahara and the resulting tensions at the level of the AU.

11. I sought the views of the parties on two specific issues: on the one hand, the contribution that could be made by the AU in finding a solution, bearing in mind the lead role of the United Nations; on the other hand, what the elements of a solution might be, given past discussions and the current stalemate.

12. The Moroccan authorities reaffirmed the central role of the United Nations in conducting the negotiation process. They cautioned against the risks of a parallel process, contending that by recognizing the SADR, the AU had excluded itself from efforts to find a solution: for all intent and purpose, the Union has taken decision on the debate on the status of the territory which the United Nations is trying to determine. They, however, did not totally rule out a role for the AU, as long as the primacy of the UN in dealing with the situation was not questioned. In this regard, they expressed their support for the efforts of the Personal Envoy of the United Nations Secretary-General and their commitment to the UN-led negotiating process.

The Moroccan authorities believe that any settlement of the conflict requires the effective involvement of Algeria.

13. On the substance of the solution to be promoted, the Moroccan authorities, having reiterated their position to the effect that the territory belongs to the Kingdom of Morocco, recalled their offer of autonomy on the basis of the Initiative presented to the Security Council in April 2007. They added that the Council had "welcomed serious and credible Moroccan efforts to move the process forward towards resolution".

14. On their part, the Sahrawi authorities stressed the important role that the AU should play in concert with the United Nations, as well as their readiness to immediately enter into direct negotiations, without preconditions, with the Kingdom of Morocco. They pointed out that Morocco bore full responsibility for the current impasse, having so far rejected all proposals for ending the conflict and continuing to impede the negotiations called for by the Security Council because of their preconditions. They also highlighted the suffering experienced by the refugees in Tindouf and the increasing frustration of the youth who grew up in the camps, adding that their impatience would be difficult to control if the stalemate were to continue. The Sahrawi side strongly expressed its concerns about issues relating to human rights on the territory and the exploitation of its resources.

15. Substantively, the Sahrawi authorities stated that the Kingdom of Morocco had acted in violation of the principle of inviolability of borders inherited from colonization. They stressed the inalienable nature of the right of the Sahrawi people to self-determination, in accordance with international legality and through the organization of a referendum. They recalled the decisions adopted by the relevant AU organs on this matter for several years.

16. In spite of these fundamental differences between the parties, I was encouraged by the constructive atmosphere and nature of the discussions. Indeed, the parties:

(a) welcomed my efforts and expressed their readiness to cooperate with the Commission in the implementation of the mandate entrusted to me by the Assembly of the Union;

(b) confirmed their willingness to break the current deadlock; and

(c) reaffirmed their commitment to cooperate with the Personal Envoy of the Secretary-General, to relaunch the negotiation process and reach a solution.

(iii) Interactions with the neighboring countries

17. During my discussions with the Algerian and Mauritanian authorities, I stressed the crucial role that both countries could play in finding a solution. I urged them to actively support the efforts to relaunch the negotiation process, adding that the conflict had lasted far too long and that the current situation hinders the integration efforts within framework of AMU and those aimed at promoting regional security in a more effective way.

18. Algeria and Mauritania commended the commitment of the AU to help find a solution between the parties. The need to support the efforts of the United Nations Personal Envoy was stressed. Algeria reaffirmed the importance of respecting the principle of self-determination. Mauritania reiterated its position of positive neutrality, indicating that it would support any solution that would be suitable for the parties, based on the respect of international legality.

(iv) Interactions with the United Nations

19. The United Nations expressed its willingness, based on modalities to be defined, to cooperate with the AU, with a view to finding a solution, on the understanding that the objective should be to strengthen the process led by the United Nations rather than to launch a parallel or competing initiative. From that point of view, the support of the AU to the efforts of the Personal Envoy was welcome.

III. OBSERVATIONS

20. My mission was to listen to the parties and other interested and/or concerned stakeholders and to explore, with them, modalities for a more effective AU contribution to the efforts aimed at overcoming the current impasse and finding a lasting solution. The consultations I held have highlighted the following elements:

(a) the existence of a real awareness of the risks associated with the status quo. The tension observed on the ground in recent years and the situation of the refugees, as well as the need to revitalize the building of the Maghreb region on a more solid basis and to move forward the African agenda, both in its political and economic dimensions, demonstrate, if it were necessary, the urgency of finding a solution;

(b) the readiness of the parties to positively interact with the AU towards the success of the action I have conducted; and

(c) the need for the AU to situate its efforts within the framework of an enhanced support to the United Nations-led efforts to increase their chances of success. In other words, for the AU, the objective should not be to initiate a process that is parallel to the one led by the United Nations.

IV. RECOMMENDATIONS

21. In light of the consultations and interactions I have had, as well as the observations above, I would like to submit the following recommendations to the attention of the Assembly of the Union:

(a) It is crucial that the AU actively involve itself in the search for a solution, in view of its responsibility to promote peace, security and stability across the continent. This is in line with the AU relevant instruments and the role devolved upon regional arrangements according to the relevant provisions of the United Nations Charter. In addition, the current deadlock negatively affects the functioning of the AU;

(b) The role of the AU should be aimed at accompanying and supporting the efforts of the United Nations, bearing in mind that the Security Council is seized of the matter. It should be recalled that the Personal Envoy of the United Nations Secretary-General has, since assuming duty, been conducting intensive consultations with the parties, which have expressed their commitment to cooperating with him;

(c) In line with this accompaniment and support role, it is advisable that the Assembly of the Union establish an African mechanism that will enable the AU to extend effective support to the UN-led process, based on the relevant resolutions of the Security Council. These resolutions have consistently called upon the parties to resume negotiations under the auspices of the Secretary-General, without preconditions and in good faith with a view to achieving a just, lasting and mutually acceptable political solution which will provide for the self-determination of the

people of Western Sahara in the context of arrangements consistent with the principles and purposes of the Charter of the United Nations. More specifically, this mechanism would encourage the parties to demonstrate flexibility and a spirit of compromise; interact with the United Nations and, as needed, with other stakeholders, in order to mobilize as large support as possible for the United Nations efforts; and reflect, in close consultation with the United Nations, on the substance of the desired compromise;

(d) This mechanism would report directly to the Assembly of the Union and, as necessary, to the Peace and Security Council at the level of Heads of State and Government. To ensure the necessary coherence, the issue of Western Sahara would only be raised within this framework and at this level only;

(e) The above-mentioned African mechanism could, based on the preference of the Assembly of the Union, be structured as follows:

(i) the ad hoc Committee of Heads of State and Government on the Western Sahara conflict, established by resolution AHG/Res.92 (XV) adopted by the 15th Ordinary Session of the Assembly of Heads of State and Government, held in Khartoum, The Sudan, from 18 to 22 July 1978, and whose possible reactivation was envisaged in decision Assembly/AU/Dec.653 (XXIX) of July 2017. This Committee would be expanded to include the Chairperson of the Commission;

(ii) a High-Level Panel composed of the Troika of the Union and the Chairperson of the Commission; or

(iii) a High-Level Delegation comprising the Chairperson of the Union and the Chairperson of the Commission;

(f) In the spirit of an approach that supplements the efforts of the United Nations and supports them on the basis of the parameters mentioned above, it is recommended to envisage the reopening of the AU Office to the United Nations for the Referendum in Western Sahara (MINURSO). in Laayoune, to ensure operational liaison with the United Nations;

(g) Finally, the Assembly of the Union may wish to appeal to all AU Member States, in particular the neighboring countries, to contribute to the success of the proposed African approach.

22. In parallel, it is important for the Assembly to send a clear message regarding its refusal to see the implementation of the agenda of the AU and its functioning hampered by the conflict. The priorities set, focusing particularly on integration, must be respected and fully engage the attention of the Union.

V. CONCLUSION

23. The Western Sahara conflict has lasted far too long. The situation has reached a stage where, beyond its well-known negative effects on the region, including on the affected people, it also threatens the functioning of the AU and hinders the implementation of its agenda. Such a state of affairs cannot be tolerated.

24. It is, therefore, important for the AU to significantly contribute to the search for a solution. In so doing, the objective should be to support more effectively the efforts of the United Nations, which are seized with the matter. At the same time, it is clear that no solution can be found if the parties do not show a spirit of compromise. It is also important that all Member States, including neighboring countries, contribute actively to the emergence of such a compromise.

25. I seize this opportunity to express my gratitude to the parties for their cooperation in the discharge of the mission entrusted to me by the Assembly of the Union. I also express my gratitude to the neighboring countries, the United Nations and other actors with whom I have interacted for the open and useful exchanges of views we had.